

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Year 2000 Biennial Regulatory Review)	
– Amendment of Part 22 of the)	
Commission’s Rules to Modify or)	WT Docket No. 01-108
Eliminate Outdated Rules Affecting)	
the Cellular Radiotelephone Service)	
and other Commercial Mobile Radio)	
Services)	

REPLY COMMENTS

Missouri RSA No. 7 Limited Partnership dba Mid-Missouri Cellular (“MMC”), Northwest Missouri Cellular Limited Partnership dba Northwest Missouri Cellular (“NWMC”) and RSA 1 Limited Partnership dba Cellular 29 Plus (“Cellular 29”), (collectively “Regional Carriers”),^{1/} by their attorneys and pursuant to the Notice of Proposed Rulemaking^{1/} in the above-captioned proceeding, hereby submit their reply to emphasize that the record demonstrates that it is premature to modify or eliminate Cellular Technical Rules.

^{1/}The Regional Carriers are limited partnerships formed by predominantly rural telephone companies to provide cellular service to RSAs that include their wireline telephone exchanges. MMC is the B block cellular licensee for Missouri RSA 7 and the B2 (rural) portion of the Kansas City MSA. NWMC is the B block cellular licensee for Missouri RSA 1 and Cellular 29 is the B block cellular licensee for Iowa RSA 1. As such, the Regional Carriers provide B block cellular service in the RSAs that lie primarily between the Omaha, Nebraska; St. Joseph, Missouri; Kansas City, Missouri and Columbia, Missouri MSAs.

^{2/} In the Matter of Year 2000 Biennial Regulatory Review - Amendment of Part 22 of the Commission’s Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, *Notice of Proposed Rulemaking*, WT Docket No. 01-108, 66 Fed. Reg. 31589, (June 12, 2001) (“*NPRM*”).

I. INTRODUCTION

As part of its 2000 Biennial Regulatory Review of Telecommunications Regulations, the Federal Communications Commission (“Commission” or “FCC”) has initiated a comprehensive review of the Part 22 regulations, particularly focusing on the rules in Part 22, Subpart I that govern the Cellular Radiotelephone Service.^{1/} In its review, the Commission is considering rules which it believes may have been made obsolete by technological advances and growth of competition in mobile telephony. In response to the NPRM, over thirty parties filed comments. While the industry comments filed in this proceeding cover diverse issues pursuant to the Commission’s broad inquiry, the Regional Carriers avoid reiteration of their own comments submitted on July 2, 2001, and submit the instant reply comments to highlight the fact that even parties who claim that the Commission should implement changes to rules classified as cellular technical rules, Sections 22.901 and 22.933 (analog service requirements), and 22.905 (channelization standards), recognize that changes to these rules should not begin until sometime in the future. As such, the Regional Carriers urge that it is premature to make changes to these rules.

II. THE COMMISSION SHOULD MAINTAIN ANALOG SERVICE REQUIREMENTS.

^{3/}*See generally, id.*

The record is clear. Analog service requirements are still necessary in today's commercial mobile radio service environment. The list of comments in favor of maintaining the current standards is widespread -- it runs the gambit from large carriers^{4/} and small carriers and their representatives^{1/} to wireless community safety service providers,^{1/} to members of the deaf community and consumer groups.^{1/} Comments suggesting the Commission should eliminate the analog compatibility standards on the other hand, are for the most part limited to large carriers,^{1/} their trade associations,^{1/} and digital equipment vendors.^{1/}

^{4/}*See, e.g.*, Verizon Wireless ("Verizon").

^{5/}*See, e.g.*, Bristol Bay Cellular Partnership, The Independent Cellular Services Association and MT Communications, CaseNewHolland Inc., CenturyTel Wireless, Inc., and the Rural Cellular Association.

^{6/}*See, e.g.*, OnStar Corporation, ATX Technologies, Inc., Secure Alert, Inc., and Deere & Company.

^{7/}*See, e.g.*, Wireless Consumers Alliance, Inc.

^{8/}*See, e.g.*, AT&T Wireless Services, Inc. ("AT&T"), Cingular Wireless LLC ("Cingular"), Western Wireless Corporation ("Western Wireless"), Dobson Communications Corporation ("Dobson") and United States Cellular Corporation ("USCC").

^{9/}*See, e.g.*, Cellular Telecommunications and Internet Association ("CTIA"), and Telecommunications Industry Association ("TIA").

^{10/}*See, e.g.*, QUALCOMM Incorporated ("QUALCOMM"), and Ericsson.

Verizon, corroborates the Regional Carriers' Comments by recognizing that "analog cellular technology is the only ubiquitous nationwide wireless CMRS technology. Nationwide roaming capability is dependent on analog technology, and even "all digital" PCS carriers put analog capable equipment in their customers' hands in order to facilitate nationwide roaming."^{11/} Further, the Rural Cellular Association succinctly demonstrates that "the requirement that all cellular carriers provide analog service is not obsolete, but remains vibrant and necessary. The continued enforcement of this rule is essential in promoting nationwide, ubiquitous roaming and in preventing larger carriers from obtaining disproportionate market power."^{12/}

^{11/}Verizon at 3-4.

^{12/}Rural Cellular Association at 1-2.

Even commenters who favor elimination of the analog standard do so with the caveat that it should not be eliminated *yet*.^{13/} Moreover, proponents of elimination of the analog capability standard claim that factors such as TTY compatibility needs and roaming agreements necessitate carriers' continued maintenance of analog capability whether or not such a requirement remains in the rules.^{14/} These claims are further evidence that elimination of the analog capability standard is premature. Until there is deployment of ubiquitous, digital, nationwide CMRS coverage, which allows for nationwide roaming among various digital technologies, and until there is a digital solution for wireless TTY interfaces, it is imperative that the Commission maintain the current rules.

Some parties urging elimination of the rule suggest that the rule is not needed as market conditions will mandate that carriers continue to offer analog service.^{15/} The Regional Carriers do not accept this position as being either factual or supportive of a position to eliminate the analog requirement. First, if carriers intend to continue offering analog service, then there is no need to eliminate the requirement under the rules. Indeed, the only reason to seek to have that requirement eliminated would be to allow carriers the opportunity to eliminate their analog service offerings (or threaten to do so) as a negotiating tactic to force further concessions from small rural carriers.

^{13/}See, e.g., CTIA at 8-11 ("thus the Commission should adopt a schedule to gradually eliminate the standard that will ensure that present analog subscribers do not experience an unanticipated loss of service."); USCC at 2-4 ("there should be a transition period within which AMPS should continue to have to be offered and during which the number of AMPS customers will be gradually reduced by the natural evolution to digital service."); Self Help for Hard of Hearing People at 3 ("fears that the timing is premature, and it would result in a compromise of accessibility to all telecommunications services to people with hearing loss."); and Sprint, *generally* (advocating a five-year sunset date with a transition period).

^{14/}See, e.g., AT&T at 3-4 ("until a digital TTY solution becomes available, cellular carriers will continue to operate some analog capacity in order to meet the requirements of Section 255." AT&T also lists roaming agreement terms as dictating need for continued maintenance of the analog network.);

^{15/}See, e.g., Cingular at 5-10 and AT&T at 3-4.

Indeed, AT&T posits that contractual requirements in its existing roaming agreements mandate the continued offering of analog service will require AT&T to continue offering analog service without the Commission requirement to do so.^{16/} While the Regional Carriers acknowledge that this is a common requirement in current roaming agreements (entered into under current Commission rules that mandate analog service) it is imperative to note that virtually all roaming agreements are unilaterally cancellable on very short notice. In point of fact, there is a history of certain large carriers doing precisely that when a small rural carrier is unwilling or unable to acquiesce to a large carrier's latest roaming demands. Accordingly, the existence of roaming agreements alone guarantees nothing. Stated another way, if AT&T felt it was absolutely bound to continue offering analog service by the requirements of these agreements, then, from AT&T's perspective, nothing would be gained by removing the analog service requirement. The argument that the Commission should remove analog service requirements from its rules because carriers will continue to offer analog service anyway is ridiculous. The Commission should not be deceived by the promise that carriers will maintain analog service longer than the rules require. Instead, the Commission should maintain its analog service requirements until those requirements actually become unnecessary.

^{16/}See AT&T at 3-4.

Several proponents of eliminating the analog service requirements suggest that even if the analog requirement is eliminated, it should be “phased out” over a period of time. Some even suggest a period of 5 years.^{17/} The Regional Carriers respectfully submit that if the current state of affairs is such that the requirement should be “phased out” over a period in excess of 2 years, that the prudent course of action for the Commission to follow would be to do nothing to its present rules until the next biennial review. If, after two additional years the industry has, in fact, matured to the point where the analog requirement can be eliminated or begin to be phased out, the Commission can do so in the ordinary course of its *next* biennial review. What’s imperative is that the Commission *not* do so during this biennial review.

Finally, comments which appear on their face to support elimination of the analog capability standard make a clear distinction between removing reference to OET Bulletin 53 and elimination of the standard altogether.^{18/}

Without prejudice to the Regional Carriers’ strong belief that no Commission action be undertaken at this time to eliminate the analog service requirement, we reiterate the following compromise position initially presented in our Comments in the instant proceeding. The Commission could relax its analog service requirement by not requiring the deployment of analog equipment at new sites or in new coverage areas where analog service was not being offered prior to this time while requiring that all previously deployed analog service remain in service pending re-evaluation at the next biennial review. While there clearly are disadvantages to this approach (such as adding new coverage areas where analog-only equipment could not obtain service - which is particularly troublesome in the context of unique situations such as the lack of digital TTY access)

^{17/}*Supra*, note 13.

^{18/}*See, e.g.*, Qualcomm at 2, TIA at 3-4, and CTIA at 8-11.

such a course of action would further the Commission's stated goal of hastening subscriber migration to more spectrally-efficient digital deployments by providing enhanced coverage areas for digital-only equipment. Moreover, while such a course of action could freeze further analog expansion, it would also ensure that the analog "status quo" is maintained pending further deployment of ubiquitous digital coverage for all digital technologies.

III. THE COMMISSION SHOULD MAINTAIN CURRENT CHANNELIZATION RULES.

Cingular claims it is unnecessary to retain the channelization plan. It argues that "this rule becomes moot should the Commission eliminate the analog requirement."^{19/} Western Wireless also supports the Commission's proposal to remove the channelization plan.^{20/} CTIA claims "Because the Commission has exempted digital technologies from the cellular channelization plan, this rule has effectively lost its meaning."^{21/} To the extent carriers continue to deploy analog systems, the removal of the rule will not change the standards applicable to analog technologies."^{22/}

^{19/}Cingular at 17-18.

^{20/}See Western Wireless at 10-11.

^{21/} This, of course, is not actually the case. While it is true that CDMA does not follow the standard channelization plan, the TDMA digital technology was expressly developed to fit within the standard analog channelization plan.

^{22/}CTIA at 14-15, *note 21 added*.

The Regional Carriers wish to reemphasize that elimination of current channelization requirements would further complicate the already difficult task of coordinating with incompatible channelization schemes in adjacent markets. Accordingly, once again, the Regional Carriers urge that any modification to the channelization plans contained in the Commission's rules expressly require that the carrier seeking to deploy such non-standard channelization maintains the obligation to protect the pre-existing standard channelization plan-users in adjacent markets and take whatever steps are needed to avoid blocking the growth of the carrier that continues to utilize the standard channelization format. In their comments, large carriers such as Verizon, recognize that the channelization plan and the analog service requirements are dependent upon one another. Therefore, the channelization plan rules must be maintained until the analog service requirement rules are fully eliminated,^{1/} which, as discussed in detail above, should not occur any time soon.

IV. CONCLUSION

The record in this proceeding strongly favors maintaining the current rules with respect to analog capability requirements and channelization. Even those arguing for the elimination of those rules do so either with promises of continuing to offer analog service anyway or, or urge that any elimination be phased-in over an extended period of time. Either argument merely strengthens the Regional Carrier's position that no Commission action should be taken at this time and that the more prudent course of action would be to re-visit the issue at the next biennial review of its rules. In the alternative, in the event the Commission is inclined to make **any** modifications to those rules at this time, the elimination of the analog service requirement should apply only to newly constructed

^{23/}See Verizon at 19-20.

cell sites. It is imperative to small cellular carriers, end users and the public interest, that the current analog service coverage is maintained.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, LaWanda Y. Tyson, a secretary with the law firm Kurtis & Associates, P.C., do hereby certify that I have this 1st day of August 2001, had copies of the foregoing "Reply Comments" sent via First Class United States Mail, postage prepaid to the following:

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